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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of) MM Docket 95-51
) RM-8591
Amendment to Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations,)
(Shingletown, California.))

DOCKET FILE COPY ORIGINAL

TO: Chief, Allocations Branch,
Policy and Rules Division,
Mass Media Bureau.

PETITION FOR RECONSIDERATION OF REPORT & ORDER DA 96-1164.

m. JAYNE sawyer ("sawyer"), d/b/a/ m. JAYNE enterprises,
hereby requests that the Federal Communications Commission
("FCC") accept this Petition for Reconsideration of the action
taken by the FCC in Report and Order ("R&O") DA 96-1164,
regarding MM Docket 95-51. The R&O was adopted 19 July 1996,
and released 26 July 1996. sawyer files this Petition for
Reconsideration as a Matter of Right and Standing, as sawyer
did file with the FCC a Petition for Reconsideration of R&O
DA 96-625 on 30 May 1996. The requested relief in that Petition
conflicts with the FM Channel Allotted to Shingletown, California
via the instant R&O DA 96-1164.

sawyer will demonstrate in this Petition for Reconsideration
that:

1. sawyer is entitled to have this Petition accepted
and considered by the Chief, Allocations Branch.
2. The FCC failed to follow FCC Rules and Regulations
when the FCC adopted R&O DA 96-1164.

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3. FM Channel 232A should be Allotted to Shingletown, California or no Allotment should be made at all.

sawyer's Petition is Entitled to Acceptance and Consideration.

sawyer did file in a timely manner the Petition for Reconsideration of R&O DA 96-625. That pleading is incorporated into this document by reference and a complete copy of the Petition for Reconsideration of R&O DA 96-625 is appended to this document and labeled ATTACHMENT A. In that pleading, sawyer sought the Allocation of FM Channel 241C2 to Shasta Lake, California in place of the Allotment of FM Channel 296C3, the action taken in R&O DA 96-625. The distance between the cities of Shasta Lake and Shingletown, California is approximately 45 kilometers (28 miles). The required distance between Co-channel Class A and Class C2 FM Stations is 166 kilometers (103 miles). Therefore, the relief sought by sawyer in her Petition for Reconsideration of R&O DA 96-625 is mutually exclusive to the action taken via R&O DA 96-1164. sawyer's Petition for Reconsideration of R&O DA 96-625 was **filed 50 days before the adoption of DA 96-1164.** sawyer has Right and Standing to file the instant Petition for Reconsideration of R&O DA 96-1164, as she is an affected party because of the action taken in R&O DA 96-1164.

THE FCC FAILED TO FOLLOW FCC RULES AND REGULATIONS WHEN ADOPTING THE REPORT AND ORDER DA 96-1164.

Section 1.420(d) of the FCC Rules and Regulations states in regard to proceedings to Amend the FM Table of Allotments:

Counterproposals shall be advanced in the initial Comments only and will not be considered if they are advanced in Reply Comments. (Emphasis added).

Clearly the FCC did not follow FCC Rules and Regulations in the case of R&O DA 96-1164. The R&O DA 96-1164 states in Paragraph 1 that the Petitioner in this matter, Mark C. Allen ("Allen"), did not file Comments at all. Furthermore, the R&O at Paragraph 2 states:

"In reply comments, petitioner abandoned his interest in Channel 232A at Shingletown, advocating an interest in in applying for Channel 241A at that community instead." (Emphasis added).

This constitutes a Counterproposal, and should have not been considered. Not only did the FCC accept this Counterproposal at the Reply Comments stage of the proceedings, but the FCC also failed to indicate via a Public Notice that FM Channel 241A was being considered for Allocation to Shingletown, California. Therefore, the FCC did not follow FCC Rules in the adoption of R&O DA 96-1164.

FM CHANNEL 232A SHOULD BE ALLOTTED TO SHINGLETOWN, CALIFORNIA OR NO ALLOTMENT SHOULD BE MADE AT ALL.

The Notice of Proposed Rule Making ("NPRM") for MM Docket 95-51 indicated that the FCC was considering the Allocation of FM Channel 232A to Shingletown, California. Since no viable Counterproposal was advanced in the Comment stage, and the Counterproposal by Allen at the Reply Comment stage is contrary to FCC Rules, the FCC should have Allocated FM Channel 232A

as requested by Allen. FM Channel 232A can be Allotted without site restriction at the site specified in the NPRM, North Latitude 40-29-33 and West Longitude 121-53-17.

Or alternatively, since Allen did not express a continuing interest in the Allotment of FM Channel 232A to Shingletown during the Comment stage, and in fact, Allen abandoned his interest in Channel 232A at Shingletown (as noted in R&O DA 96-1164), no Allocation should be made to Shingletown at this time.

CONCLUSION.

sawyer has filed this PETITION FOR RECONSIDERATION of the action taken by the FCC in R&O DA 96-1164 as a party affected by that action. sawyer has demonstrated that the FCC did not follow FCC Rules and Regulations in determining the outcome of the proceedings for the NPRM for MM Docket 95-51. sawyer requests that her Petition for Reconsideration of R&O DA 96-625 filed 30 May 1996 be adopted in it's entirety, including Allocating FM Channel 241C2 at Shasta Lake, California in place of FM Channel 296C3. In the instant Petition for Reconsideration of R&O DA 96-1164, the FCC should either Allocate FM Channel 232A as proposed in the NPRM for MM Docket 95-51 or make no Allocation to Shingletown, California at this time.

sawyer respectfully requests that the FCC act swiftly on both of the Petitions for Reconsideration, R&O DA 96-625 and R&O DA 96-1164, and make the Allocations requested in both those documents.

All statements and data contained in this PETITION FOR
RECONSIDERATION of R&O DA 96-1164 are accurate and true to the
best of my knowledge.

DATE: 16 aug 96

P.O. Box 1074,
Chico, CA. 95927

SIGNATURE: m. Jayne s
(m. JAYNE Sawyer.)

CERTIFICATION OF SERVICE.

I, m. JAYNE sawyer, do certify that a copy of the foregoing PETITION FOR RECONSIDERATION regarding Report and Order DA 96-1164 has been mailed to the party listed below via first-class mail, postage pre-paid, on this 16 th day of August 1996.

Party served:

Mr. Mark C. Allen
3745 McHale Way,
Redding, CA. 96001

SIGNATURE: m. jayne s

(m. JAYNE sawyer.)

m. JAYNE sawyer
PETITION FOR RECONSIDERATION
REPORT & ORDER DA 96-1164.

ATTACHMENT A.

PETITION FOR RECONSIDERATION
REPORT & ORDER DA 96-625.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	MM Docket 94-76
)	MM Docket 94-77
Amendment of Section 73.202(b))	
Table of Allotments,)	RM-8470
FM Broadcast Stations,)	RM-8477
(Chester, Shasta Lake City,)	RM-8523
Alturas, McCloud, and)	RM-8524
Weaverville, California.))	

TO: Chief, Allocations Branch,
Policy and Rules Division,
Mass Media Bureau.

PETITION FOR RECONSIDERATION OF REPORT & ORDER DA 96-625.

m. JAYNE sawyer ("sawyer") d/b/a m. JAYNE enterprises, hereby requests that the Federal Communications Commission ("FCC") accept this Petition for Reconsideration of the action taken by the FCC in Report and Order ("R&O") DA 96-965, regarding MM Dockets 94-76/94-77. The R&O was adopted 23 April 1996, and released 3 May 1996. sawyer files this Petition as a Matter of Right and Standing, as sawyer did file a Petition for Rulemaking (RM-8477), which resulted in MM Docket 94-76, to amend Section 73.202(b), FM Table of Allotments, to Allot FM Channel 296A to Chester, California as that community's second local FM service. A Notice of Proposed Rulemaking ("NPRM") for MM Docket 94-76 was adopted 23 June 1994, and released 13 July 1994. COMMENTS were due by 3 Sept. 1994, with REPLY COMMENTS due by 20 Sept. 1994.

sawyer will demonstrate in this Petition for Reconsideration that:

1. sawyer is entitled to have this Petition accepted and considered by the Chief, Allocations Branch.
2. sawyer's request to Allocate FM Channel 296A to Chester is preferable to the Allocation of FM Channel 259A.
3. FM Channel 296A can be Allocated to Chester, California, per sawyer's Petition for Rulemaking, while at the same time allowing FM Channels to be Alloted to the other communities cited in the R&O.

sawyer's Petition is Entitled to Acceptance and Consideration.

Section 1.429(b)(2) of the FCC rules states with respect to Petitions for Reconsideration:

" The facts relied on were unknown to the petitioner until his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts in question prior to such opportunity."

The circumstances contemplated by Section 1.429(b)(2) apply to sawyer's Petition for Reconsideration. sawyer filed timely COMMENTS to the NPRM for MM Docket 94-76. No other COMMENTS were served on sawyer (as Petitioner for MM Docket 94-76). Despite the CERTIFICATION OF MAILING filed by Ralph Saul of Goldrush Broadcasting ("Goldrush"), indicating that a copy of the OPPOSITION TO PROPOSED RULEMAKING AND PETITION FOR COUNTERPROPOSAL RULEMAKING was mailed to sawyer, that document was never received. Attached as EXHIBIT A is a copy of Goldrush's CERTIFICATION. The city in California where sawyer resides, "CHICO", has been misspelled as "CICO", possibly the reason no document was received. Therefore, sawyer did not have an opportunity to formulate and file REPLY COMMENTS to

the OPPOSITION/PETITION filed by Goldrush. The R&O for MM Dockets 94-76/94-77 at footnote 5 states: "Public Notice of Goldrush's counterproposal was given in Report No. 2029, released Sept. 20, 1994." The REPLY COMMENTS for the NPRM for MM Docket 94-76 were due that same day, Sept. 20, 1994. Therefore, sawyer was effectively prevented from formulating and filing REPLY COMMENTS to Goldrush's OPPOSITION/PETITION, even if sawyer had an opportunity to see and review Report No. 2029.

sawyer's Request to Allocate FM Channel 296A is Preferable to the Allocation of FM Channel 259A at Chester, California.

sawyer's Request to Allocate FM Channel 296A to Chester, California was based not only on theoretical data from FM Spacing Studies ordered by sawyer, but also from empirical data gathered by sawyer conducting listening tests on FM Frequencies in Chester during her extended visits while on vacations and weekends spent in that community. These listening tests revealed that there are a number of FM signals in use in Chester within the 98-101 MHZ portion of the FM Band. Furthermore, these signals seemed to cause interference with one another, depending on the location of the FM receiver in the Chester area. sawyer learned that there are a number of FM Translators that serve Chester, as well as KCMT, FM Channel 255C (98.9 MHZ). Further research by sawyer revealed that the following FM signals are licensed to Chester in the 98-101 MHZ section of the FM Band:

<u>CALL SIGN</u>	<u>FREQ.(MHZ)</u>	<u>TYPE OF STATION.</u>
K252 AL	98.3	FM Translator.
KCMT	98.9	FM Station.
K257 AR	99.3	FM Translator.
K265 AA	100.9	FM Translator.

Chester residents for many years have depended on the FM Translator service provided by a local non-profit organization. To propose and apply for an FM Station on 99.7 MHZ (FM Channel 259A), which could possibly cause interference to the established FM Translator stations or cause these signals to go off the air (given the Secondary Status of FM Translators) would not be a prudent business plan nor a wise public relations move for someone trying to build and establish a new local FM Station. Therefore, the Allocation of FM Channel 296A is preferable to FM Channel 259A.

FM CHANNEL 296A CAN BE ALLOCATED TO CHESTER WHILE ALLOWING FM ALLOCATIONS TO THE OTHER COMMUNITIES CITED IN THE R&O.

Firstly, sawyer has no OPPOSITION to the Allocation of FM Channel 276C2 to Weaverville, California or the Allocation of FM Channel 297C2 to Rio Dell, California. sawyer does propose the following changes to the FM Allocations contemplated by the Report and Order DA 96-625, in addition to the Allocation of FM Channel 296A to Chester, California:

1. Allot FM Channel 237C3 at McCloud in place of FM Channel 238C3.
2. Allot FM Channel 241C2 at Shasta Lake City in place of FM Channel 296C3.
3. Allot FM Channel 299C at Alturas in place of FM Channel 297C.

-or-

Allot FM Channel 297C1 at Alturas in place of FM Channel 297C.

-or-

Do not Allot FM Channel 297C at Alturas as an equivalent, vacant FM Channel Allotment, FM Channel 293C, already exists at Alturas.

ALLOT FM CHANNEL 237C3 AT McCLOUD.

Attached is EXHIBIT B, FM Spacing Study for FM Channel 237C3 at McCloud, which demonstrates that this FM Channel is fully spaced from other pertinent FM Allocations at the site co-ordinates specified in the R&O for FM Channel 238C3. Allotment of FM Channel 237C3 to McCloud would alleviate some possible site limitations to the Allotment of FM Channel 241C2 at Shasta Lake City.

ALLOT FM CHANNEL 241C2 AT SHASTA LAKE CITY.

Attached is EXHIBIT C, FM Spacing Study for FM Channel 241C2 at Shasta Lake City, which demonstrates that this FM Channel is fully spaced from pertinent FM Allocations at the site selected. That site is approximately 30.3 km (18.8 miles) East of Lake Shasta City, well within the Class Contour for a C2 FM Station of 52 km (32.3 miles). However, applicants for this FM Channel at Shasta Lake City could utilize the Contour Protection of Section 73.215 of the FCC Rules in order to use

a site closer to Lake Shasta City, if such a site were more desirable.

A. ALLOT FM CHANNEL 299C AT ALTURAS.

Attached is EXHIBIT D, FM Spacing Study for FM Channel 299C at Alturas, which demonstrates that this FM Channel is fully spaced from the pertinent FM Allocations at the site selected. That site is approximately 16.6 km (10.3 miles) East of Alturas, well within the Class Contour for a C FM Station of 92 km (57.1 miles). However, applicants for this FM Channel at Alturas could utilize the Contour Protection of Section 73.215 of the FCC Rules in order to use a site closer to Alturas, if such a site were more desirable.

B. ALLOT FM CHANNEL 297C1 AT ALTURAS.

The Allotment of FM Channel 297C1 at Alturas at the site specified by Goldrush would remove any short spacing conflict to the Allotment of FM Channel 296A at the site proposed by Sawyer in MM Docket 94-76. The required spacing for a Class A to Class C1 Adjacent Channel FM Stations is 133 km (83 miles). The actual spacing between these sites is 142.3 km (88.4 miles). The Allotment of FM Channel 297C1 at Alturas in lieu of FM Channel 297C at the site specified by Goldrush should cause no hardship if Goldrush is indeed serious about making an application for that FM Channel. At the site specified by Goldrush, 1 km (.62 miles) East of Alturas, a tower of at least

275 meters (900 feet) and an Effective Radiated Power (ERP) of 100 kilowatts would be required to achieve **minimum FM Class C facilities (i.e exceed Class C1 facilities)**. It is doubtful that facilities meeting this minimum Class C facilities would be built to serve Alturas, given the small population (1990 Census population of 3,231 persons), and the existence of an already Licensed AM and FM Station that serves Alturas. Furthermore, given the close proximity to the city of Alturas and the Alturas airport, facilities meeting the minimum Class C requirements would not be approved by the local authorities, the Federal Aviation Administration, nor the FCC, given the potential FM Blanketing interference that would affect residents of the city of Alturas.

C. DO NOT ALLOT FM CHANNEL 297C TO ALTURAS.

Alturas, California presently has two (2) Class C FM Allotments, FM Channel 267C and FM Channel 293C. These Channels were Alloted via the R&O for MM Docket 92-272, effective 10 May 1993. FM Channel 267C was substituted for FM Channel 233C1 at the request of the Petitioner for MM Docket 92-272 , KCNO, Inc. FM Channel 293C was Allocated as an equivalent Channel, without any site restrictions, to the Channel requested by KCNO, Inc. The window period for application for FM Channel 293C was 11 May 1993 through 10 June 1993. To date, no applications have been filed for FM Channel 293C. If Goldrush is indeed serious about making an application for a Class C FM Station to serve Alturas, that opportunity presently exists with FM

Channel 293C, and is useable at the site specified by Goldrush. Additionally, an application by Goldrush to use FM Channel 293C at Alturas would enjoy protection from other applications as a "First-Come, First-Served" applicant. FM Channel 293C is an equivalent FM Channel to FM Channel 297C, in all respects, therefore the Allocation of yet another additional Class C Channel (297C) to Alturas is unnecessary and unwarranted.

CONCLUSION.

sawyer has filed this PETITION FOR RECONSIDERATION to address the OPPOSITION/COUNTERPROPOSAL to MM Dockets 94-67/94-77 filed by Goldrush Broadcasting, a document never served on sawyer. sawyer has established her right to file this PETITION FOR RECONSIDERATION per the FCC Rules. sawyer has also advanced reasonable arguments supporting the Allotment of FM Channel 296A to Chester, California as requested via MM Docket 94-76. Additionally, sawyer has provided data demonstrating that FM Channels are available to Allocate to all the communities cited in the Report and Order for MM Dockets 94-76/94-77. In the case of the Allotment at Shasta Lake City proposed by sawyer, FM Channel 241C2 in lieu of FM Channel 296C3, that Allotment is preferable and consistent with the FCC policy to Allot the highest Class Channel available to a community.

The source of the data for the FM Spacing Studies is dataworld, Washington, D.C. All statements contained in this PETITION FOR RECONSIDERATION is accurate and true to the best of my knowledge.

DATE: 29 May 96

P.O. Box 1074,
Chico, CA. 95927

SIGNATURE: m. Jayne S
(m. JAYNE sawyer.)

CERTIFICATION OF SERVICE.

I, m. JAYNE sawyer, do certify that a copy of the foregoing PETITION FOR RECONSIDERATION regarding Report and Order DA 96-625 has been mailed to the parties listed below via first-class mail, postage pre-paid, this 29th day of May 1996.

Parties served:

Mr. Mark C. Allen
3745 McHale Way,
Redding. CA. 96001

Mr. Ralph Saul, President
Goldrush Broadcasting
7544 Second Street,
Downey, CA. 90241

SIGNATURE: m. jayne sawyer

(m. JAYNE sawyer)

EXHIBIT A.
m. JAYNE sawyer
PETITION FOR RECONSIDERATION
REPORT & ORDER DA 96-625

CERTIFICATION

I, Ralph Saul do hereby confirm that all statements of fact in the foregoing Opposition To Proposed Rulemaking and Petition For Counter-proposed Rulemaking are made under penalty of perjury.

I, Ralph Saul do hereby confirm that I have this 29th day of August, 1994, sent a true and accurate copy of the foregoing Opposition To Proposed Rulemaking and Petition For Counterproposed Rulemaking request to the following and that I have sent all copies by first class U.S. mail, postage prepaid, or as indicated:

- 1.) Federal Communications Commission
ATTN: Nancy Joyner
1919 'M' Street N.W.
Washington, D.C. 20554
- 2.) JAYNE sawyer
P. O. BOX 1074
Cico, California 95927
- 3.) Mark C. Allen
3745 McHale Way
Redding, California 96001

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I do hereby confirm under penalty of perjury that I have this day mailed the above persons a true copy of the petition and that all statements of fact are true and correct to the best of my personal knowledge.

Dated this 29th day of August, 1994.

Ralph Saul
Ralph Saul

7544 Second Street
Downey, California 90241

EXHIBIT B.**m. JAYNE sawyer
PETITION FOR RECONSIDERATION
REPORT & ORDER DA 96-625.**

Co-channel, Adjacent Channel, and I.F. Spacing for FM Channel
237C3 (95.3 MHZ) at McCloud, California.

Reference Co-ordinates: 41-15-18, 122-08-24.

<u>CALL SIGN</u> <u>CITY OF LICENSE</u>	<u>CHANNEL</u> <u>FREQ.(MHZ)</u>	<u>REQUIRED</u> <u>DISTANCE(km)</u>	<u>ACTUAL</u> <u>DISTANCE(km)</u>
KEWB Anderson, CA.	234C2 94.7	56	74.5
KMXI Chico, CA.	236B 95.1	145	149.6
Allocation Lakeview, OR.	237C2 95.3	177	181.6
KBOY-FM Medford, OR.	239C1 95.7	76	153.3
KARZ Burney, CA.	291C 106.1	31	46.8

EXHIBIT C.**m.JAYNE sawyer
PETITION FOR RECONSIDERATION
REPORT & ORDER DA 96-625.**

Co-channel, Adjacent Channel, and I.F. Spacing for FM Channel
241C2 (96.1 MHZ) at Shasta Lake City, California.

Reference Co-ordinates: 40-46-30, 122-04-00.

<u>CALL SIGN</u> <u>CITY OF LICENSE</u>	<u>CHANNEL</u> <u>FREQ.(MHZ)</u>	<u>REQUIRED</u> <u>DISTANCE(km)</u>	<u>ACTUAL</u> <u>DISTANCE(km)</u>
KALF Red Bluff, CA.	239B 95.7	74	108.1
KYMX Sacramento, CA.	241B 96.1	241	241.6
Allocation Susanville, CA.	242C3 96.3	117	118.1
KFMI Eureka, CA.	*242C1 96.3	158	161
Allocation Lakeview, OR.	243C 96.5	105	151.3
KZAP Paradise, CA.	244B1 96.7	56	95.1
KDIG Orland, CA.	294B 106.7	20	109.4
KKRB Klamath Falls,OR.	295C1 106.9	27	162.3

*Construction Permit BPH-870302 NJ, for FM Class C facilities
canceled on 31 July 1992 by FCC for failure to construct
requested facilities. Station should be Re-Classified as a
C1 Station.

EXHIBIT D.**m.JAYNE sawyer
PETITION FOR RECONSIDERATION
REPORT & ORDER DA 96-625.**

Co-channel, Adjacent Channel, and I.F. Spacing for FM Channel
299C (107.7 MHZ) at Alturas, California.

Reference Co-ordinates: 41-28-32, 120-20-19.

<u>CALL SIGN</u> <u>CITY OF LICENSE</u>	<u>CHANNEL</u> <u>FREQ.(MHZ)</u>	<u>REQUIRED</u> <u>DISTANCE(km)</u>	<u>ACTUAL</u> <u>DISTANCE(km)</u>
PRM Chester, CA,	296A 107.1	95	148.3
KSTN-FM Stockton, CA.	297B 107.3	105	424.1
Allocation Ashland, OR.	298C2 107.5	188	217.5
KPPL Colusa, CA.	298B 107.5	217	296.1
KBCH-FM Kings Beach, CA.	299C3 107.7	237	244.3
KEDY Mount Shasta, CA.	300A 107.9	165	165.7

No I.F. Spaced Stations operating in the Alturas area.